



INTERIOR BOARD OF INDIAN APPEALS

Estate of James Edward French

36 IBIA 83 (03/20/2001)

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United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF JAMES EDWARD FRENCH : Order Docketing Appeal and Affirming
: Decision but Remanding Matter to
: the Attorney Decision Maker for the
: Limited Purpose Discussed
:
: Docket No. IBIA 01-68
:
: March 20, 2001

Appellant Judy French Baker seeks review of a January 31, 2001, decision issued by Attorney Decision Maker Ange Aunko Hamilton in the estate of James Edward French (Decedent). Case No. AB-038-H-01-A. The order determined Decedent's heirs and ordered distribution of the funds in his Individual Indian Money (IIM) account. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision, but remands this matter to the Attorney Decision Maker for the limited purpose discussed below.

The Attorney Decision Maker found that Decedent died on September 24, 1981, and that, at the time of his death, the only trust property he owned was money in his IIM account under the jurisdiction of the Department of the Interior, Office of the Special Trustee. She found that under the intestate succession laws of the State of South Dakota, Decedent's heirs were his two sons, Michael French and Rodney B. French; his three daughters, Patricia French, Jolene French/Cordova, and Judy French/Baker (Appellant); and his grandson, Jay Dean Lyon. She further found that these six heirs shared equally in Decedent's estate.

Appellant argues that Jay Dean Lyon, the son of Decedent's previously deceased son, Jay Dean French, should be shown as an heir of Decedent. Jay Dean Lyon is shown to be an heir. It appears that Appellant may be seeking some additional statement in regard to the blood quantum and/or lineage of Jay Dean Lyon. Assuming for the purpose of this discussion that Appellant has standing to raise this request, it is not within the scope of this probate proceeding to determine the blood quantum of any individual or to discuss lineage except in relation to the Decedent.

Most of Appellant's remaining arguments appear to seek to have a fuller life history of Decedent placed into the record. This purpose of this proceeding is to determine Decedent's

heirs and to distribute the funds in his IIM account. Although Appellant might like to see additional information relating to Decedent's life placed on record, such information is not needed for, or part of, this probate proceeding.

Appellant challenges the amount in Decedent's IIM account. She contends that there should be an additional \$1,800 in the account based upon a check that should have been deposited into the account, or perhaps was sent to Decedent but returned to the Bureau of Indian Affairs, in September 1981, the month in which Decedent died. Although Appellant's information concerning this transaction is not at all clear, it is sufficient to cause the Board to conclude that this matter should be remanded to the Attorney Decision Maker for the sole purpose of requesting information from the Office of the Special Trustee as to whether Decedent was entitled to receive funds in the amount of \$1,800 in September 1981; and, if so, what the disposition of those funds was.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed and the January 31, 2001, decision of the Attorney Decision Maker is affirmed. However, this matter is remanded to the Attorney Decision Maker for the sole purpose stated above. If the Office of the Special Trustee finds that additional funds are due to Decedent, the Attorney Decision Maker shall modify her order nunc pro tunc to show the new amount. If the Office of the Special Trustee states that no additional funds are due to Decedent, the January 31, 2001, decision shall stand in its entirety. If the Office of the Special Trustee states that no additional funds are due to Decedent, and if Appellant objects to that statement, Appellant must pursue her objection directly with the Office of the Special Trustee. This probate proceeding is not the proper forum for resolution of such a dispute.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge